

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.RAMKUMAR

FRIDAY, THE 7TH DECEMBER 2007 / 16TH AGRAHAYANA 1929

Crl.Rev.Pet.No. 4374 of 2007()

AGAINST THE ORDER DATED 25/08/2007 IN IN CMP.751/2007 IN
CMP.3796/2007 of JUDL. MAGISTRATE OF FIRST CLASS COURT,
IRINJALAKUDA
.....

REVN. PETITIONER:

ABEESHKUMAR, AGED 35 YEARS,
S/O. BALAN, KAROTT, MANNEPETTA DESOM
AMBALLUR VILLAGE, MUKUNDAPURAM TALUK

BY ADV. SRI.C.A.CHACKO
SMT.C.M.CHARISMA
SRI.N.A.SHAFEEK

RESPONDENTS:

THE STATE OF KERALA,
REP. BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA,
ERNAKULAM

BY PUBLIC PROSECUTOR SRI. P. RAVEENDRA BABU

THIS CRIMINAL REVISION PETITION HAVING COME UP FOR ADMISSION
ON 07/12/2007, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

V. RAMKUMAR, J.
* * * * *
Crl.R.P. NO. 4374 of 2007
* * * * *
Dated: 07-12-2007

ORDER

The revision petitioner who is the complainant in a private complaint filed under Sec. 138 read with Sec. 142 of the Negotiable Instruments Act, 1881, involving a cheque for Rs. 1,00,000/- challenges the order dated 25-08-2007 in C.M.P. No. 3796 of 2007 passed by the J.f.C.M., Irinjalakkuda dismissing the petition to condone the delay of 2 days in filing the complaint.

2. According to the petitioner his counsel was afflicted with "Chickun Guinea" and was unable to attend the Court and to pay the process fee and that is the reason why the petition to condone the delay happened to be dismissed for not taking steps.

3. Since the delay petition was dismissed before issuing process to the accused, notice to the accused is dispensed with in this Revision.

4. In the fitness of things, the court below should not have dismissed the delay petition. Instead, the court below could have given reasonable time to the complainant to pay the process. The impugned order is set aside and C.M.P. 3796/07 in C.M.P. 751 of 2007 is restored to file. Petitioner shall appear before the court below without any further notice on 3-1-2008. By that time, he shall have paid the requisite process fee for the further progress of the complaint.

This Revision is disposed of as above.

V. RAMKUMAR, (JUDGE)

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